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6 UNITED STATES DISTRICT COURT  
7 WESTERN DISTRICT OF WASHINGTON  
8 AT SEATTLE

9 PRIESTLEY THOMPSON, )

10 Petitioner, )

11 v. )

12 KENNETH QUINN, )

13 Respondent. )

Case No. C05-1560-RSL-JPD

ORDER OF TRANSFER

14  
15 Petitioner is a state prisoner who is currently incarcerated at the Monroe Correctional  
16 Complex in Monroe, Washington. He has submitted to this Court for review a document entitled  
17 “Motion to Vacate Judgement Sentence and Conviction” in which he requests that his 2000 King  
18 County Superior Court judgment and sentence be vacated because the Washington Court of  
19 Appeals issued an unlawful mandate in connection with that case. Petitioner asserts that this Court  
20 has jurisdiction over his motion pursuant to 28 U.S.C. § 2241.

21 However, the Ninth Circuit has made clear that § 2254 is the exclusive avenue for a state  
22 prisoner to challenge the constitutionality of his detention when the prisoner is in custody pursuant  
23 to a state court judgment *White v. Lambert*, 370 F.3d 1002, 1007 (9<sup>th</sup> Cir. 2004). Because  
24 petitioner is seeking a determination in these proceedings that his state court judgment and sentence  
25 is unconstitutional, his petition must be construed as one brought pursuant to § 2254.  
26

1 A review of this Court's records reveals that petitioner has filed at least five previous  
2 federal habeas petitions challenging his 2000 King County Superior Court conviction. (*See* C03-  
3 1327MJP, C04-473JCC, C04-477MJP, C04-745JCC, and C04-2363RSM.) The first of those  
4 petitions was denied on the merits and dismissed by the Court in January 2004. (*See* C03-  
5 1327MJP.) Three of the remaining four petitions were deemed successive and were transferred to  
6 the Ninth Circuit Court of Appeals. (*See* C04-473JCC, C04-477MJB, and C04-2363RSM.) The  
7 petition filed under cause number C04-745JCC was dismissed because petitioner failed to state any  
8 specific grounds for federal habeas relief.  
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10 Because the instant petition must be construed as a petition filed pursuant to § 2254, and  
11 because petitioner has filed several previous petitions challenging the same conviction, including  
12 one which was denied on the merits, the instant petition must be deemed successive. As petitioner  
13 has previously been advised, this Court is without jurisdiction to consider a successive petition or  
14 motion until the Ninth Circuit Court of Appeals has authorized its filing. 28 U.S.C. §  
15 2244(b)(3)(A). Accordingly, this case is hereby TRANSFERRED to the Ninth Circuit Court of  
16 Appeals, in the interests of justice, pursuant to 28 U.S.C. § 1631.  
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18 The Clerk is directed to close this case and to transfer all original documents to the Ninth  
19 Circuit Court of Appeals. The Clerk shall, however, retain a copy of the motion and of this Order  
20 in the file. The Clerk is further directed to send a copy of this Order to petitioner and to the  
21 Honorable James P. Donohue.  
22

23 DATED this 30th day of September, 2005.

24 

25 Robert S. Lasnik  
26 United States District Judge

1 Recommended for Entry this  
2 29th day of September, 2005.

3 /s/ JAMES P. DONOHUE  
4 United States Magistrate Judge